

MONTANA LEGISLATIVE HISTORY

Chapter 376 1983

Bill H 618 S _____ Original bill & history ✓C

H. Committee on Judiciary

Hearing Date(s) 2-10 _____C

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_____C

Date Out 2-10 _____C

S. Committee on Judiciary

Hearing Date(s) 3-18 _____C

_____C

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_____C

DATE OUT 3-19

Did this bill originate in an interim committee? _____Yes _____No

Committee _____

Report _____

SIGNED: 03/31/83, CHAPTER 316

HB 618 -- KEYSER, BARDANOUVE, VINGER, ET AL. -- AMENDING THE MONTANA MEDICAL MALPRACTICE PANEL ACT BY CHANGING THE NAME OF THE ACT; CLARIFYING THE DEFINITIONS USED IN THE ACT; PROVIDING FOR A DIFFERENT ALLOCATION OF ASSESSMENTS; CHANGING THE TIME WITHIN WHICH AFFIDAVITS OF DISQUALIFICATION MAY BE FILED; PROVIDING FOR SERVICE BY CERTIFIED MAIL; INCREASING THE NUMBER OF PROPOSED PANELISTS INITIALLY SELECTED; DELETING THE PROHIBITION AGAINST THE USE OF IMPEACHING EVIDENCE IN COURT; AMENDING

INTRODUCED: 02/02/83

REFERRED TO COMMITTEE ON JUDICIARY: 02/02/83

HEARING: 2/10/83

REPORT: 02/10/83, DO PASS, AS AMENDED

2ND READING: 02/12/83, DO PASS AYES: 72; NAYS: 2

3RD READING: 02/15/83, DO PASS AYES: 99; NAYS: 0

TRANSMITTED TO SENATE: 2/15/83

REFERRED TO COMMITTEE ON JUDICIARY: 02/16/83

HEARING: 3/18/83

REPORT: 03/19/83, BE CONCURRED IN

2ND READING: 03/22/83 AYES: 49; NAYS: 0

3RD READING: 03/24/83 AYES: 49; NAYS: 0

RETURNED TO HOUSE 3/24/83

TRANSMITTED TO GOVERNOR: 03/31/83

SIGNED: 04/05/83, CHAPTER 376

HB 619 -- HANNAH -- TO ALLOW A LANDLORD TO TERMINATE A TENANCY ON 3 DAYS' WRITTEN NOTICE IF THE TENANT DAMAGES OR REMOVES PART OF THE PREMISES; AMENDING

INTRODUCED: 02/03/83

REFERRED TO COMMITTEE ON JUDICIARY: 02/03/83

HEARING: 2/9/83

REPORT: 02/09/83, DO PASS

2ND READING: 02/11/83, DO PASS AYES: 59; NAYS: 16

3RD READING: 02/15/83, DO PASS AYES: 81; NAYS: 18

TRANSMITTED TO SENATE: 2/15/83

REFERRED TO COMMITTEE ON JUDICIARY: 02/16/83

HEARING: 3/10/83

REPORT: 3/10/83, BE CONCURRED IN

2ND READING: 03/11/83 AYES: 49; NAYS: 0

3RD READING: 03/14/83 AYES: 45; NAYS: 3

RETURNED TO HOUSE: 03/14/83

TRANSMITTED TO GOVERNOR: 03/21/83

SIGNED: 03/23/83, CHAPTER 221

HB 620 -- HANSEN, J. BROWN, REAM, ET AL. -- PROVIDING THAT PERSONAL CARE SERVICES ARE MEDICAL SERVICES COVERED BY COUNTY MEDICAL ASSISTANCE AND MEDICAID; AMENDING

INTRODUCED: 02/03/83

REFERRED TO COMMITTEE ON HUMAN SERVICES: 02/03/83

HEARING: 2/16/83

DIED IN COMMITTEE

1 *House* BILL NO. *618*
 2 INTRODUCED BY *Keyser B. Danneberg*
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA
 5 MEDICAL MALPRACTICE PANEL ACT BY CHANGING THE NAME OF THE
 6 ACT; CLARIFYING THE DEFINITIONS USED IN THE ACT; PROVIDING
 7 FOR A DIFFERENT ALLOCATION OF ASSESSMENTS; CHANGING THE TIME
 8 WITHIN WHICH AFFIDAVITS OF DISQUALIFICATION MAY BE FILED;
 9 PROVIDING FOR SERVICE BY CERTIFIED MAIL; INCREASING THE
 10 NUMBER OF PROPOSED PANELISTS INITIALLY SELECTED; DELETING
 11 THE PROHIBITION AGAINST THE USE OF IMPEACHING EVIDENCE IN
 12 COURT; AMENDING SECTIONS 27-6-101, 27-6-103, 27-6-104,
 13 27-6-206, 27-6-305, 27-6-402, 27-6-404, AND 27-6-704, MCA;
 14 AND PROVIDING EFFECTIVE DATES."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 Section 1. Section 27-6-101, MCA, is amended to read:

18 "27-6-101. Short title. This chapter may be cited as
 19 the "Montana Medical Malpractice Legal Panel Act".

20 Section 2. Section 27-6-103, MCA, is amended to read:

21 "27-6-103. Definitions. As used in this chapter, the
 22 following definitions apply:

23 (1) "Health care facility" means a facility (other
 24 than a university, college, or governmental hospital or
 25 infirmary) licensed as a health care facility under Title

1 50, chapter 5,

2 (2) "Health care provider" means a physician
 3 licensed to practice medicine in Montana or a hospital,
 4 hospital-related facility, or long-term a health care
 5 facility.

6 (3) "Hospital" means a hospital as defined in
 7 50-5-101.

8 (4) "Malpractice claim" means any claim or
 9 potential claim against a health care provider for medical
 10 treatment, lack of medical treatment, or other alleged
 11 departure from accepted standards of health care which
 12 proximately results in damage to the patient, whether the
 13 patient's claim or potential claim sounds in tort or
 14 contract, and includes but is not limited to allegations of
 15 battery or wrongful death.

16 (5) "Panel" means the Montana medical malpractice
 17 legal panel provided for in 27-6-104.

18 (6) "Physician" means an individual licensed to
 19 practice medicine under the provisions of Title 37, chapter
 20 2.

21 Section 3. Section 27-6-104, MCA, is amended to read:

22 "27-6-104. Creation of panel. The Montana medical
 23 malpractice legal panel is created. The panel is attached to
 24 the Montana supreme court for administrative purposes only,
 25 except that 2-15-121(2) does not apply."

Section 4. Section 27-6-206, MCA, is amended to read:

"27-6-206. Funding. (1) There is created a pretrial review fund to be administered by the director exclusively for the purposes stated in this chapter. The fund and any income from it shall be held in trust, deposited in an account, and invested and reinvested by the director with the prior approval of the director of the Montana medical association. The fund may not become a part of or revert to the general fund of this state but shall be open to auditing by the legislative auditor.

(2) To create the fund, an annual surcharge shall be levied on all health care providers. ~~The amount of the assessment shall be set by the director, who shall allocate a projected cost among health care providers on a per capita basis, except that an individual not engaged in the practice of his profession in Montana is exempt from payment of the assessment. The director may provide a different allocation upon approval by the supreme court, except physicians not engaged in the private practice of medicine. The amount of the assessment must be annually set by the director, who shall allocate a projected cost among physicians, hospitals, and other health care facilities. The amount of the assessment for an individual physician, hospital, or other health care facility must be that portion of the total assessment which bears the same relationship to the total~~

~~assessment as the number of claims against such physician, hospital, or other health care facility bears to the total number of claims against physicians, hospitals, and other health care facilities that have been filed with the panel since April 19, 1977, as that total number of claims is shown in the annual reports of the panel. However, the assessment for an individual hospital must also be determined by dividing the total percentage of the assessment for all hospitals by the total number of hospital beds existing at the time of the assessment and multiplying the result by the number of beds in the hospital to be assessed.~~ Surplus funds, if any, over and above the amount required for the annual administration of the chapter shall be retained by the director and used to finance the administration of this chapter in succeeding years, in which event the director shall reduce the annual assessment in subsequent years, commensurate with the proper administration of this chapter.

(3) The annual surcharge shall be paid on or before the date physicians' annual registration fees are due under 37-3-313. The director has the same powers and duties in connection with the collection of and failure to pay the annual surcharge as the department of commerce has under 37-3-313 in connection with physicians' annual registration fees."

Section 5. Section 27-6-305, MCA, is amended to read:

"27-6-305. Service on health care provider. Upon receipt of an application for review, the director or his delegate shall cause to be served a true copy of the application on the health care providers involved. Service shall be effected pursuant--to-the-Montana-Rules-of-Civil-Procedure by mailing a certified copy of the application to the health care provider at the provider's last-known address, postage prepaid, by certified mail, return receipt requested."

Section 6. Section 27-6-402, MCA, is amended to read:

"27-6-402. Selection of panelists. (1) Application for review shall be promptly transmitted by the director to the directors of the health care provider's state professional society or association and the state bar, which shall, within 14 days from the date of transmittal of the application, each select three 12 proposed panelists from which 3 will be selected within 30 days from the date of transmittal of the application."

(2) If no state professional society or association exists or if the health care provider does not belong to such a society or association, the director shall transmit the application to the health care provider's state licensing board, which shall in turn select three persons from the health care provider's profession and, where

applicable, from persons specializing in the same field or discipline as the health care provider."

Section 7. Section 27-6-404, MCA, is amended to read:

"27-6-404. Disqualification of panel member. (1) Any member shall disqualify himself from consideration of any case in which, by virtue of his circumstances, he feels his presence on the panel would be inappropriate, considering the purpose of the panel. The director may excuse a proposed panelist from serving."

(2) Whenever a party makes and files an affidavit that a panel member selected pursuant to this part cannot, according to the belief of the party making the affidavit, sit in review of the application with impartiality, that panel member may proceed no further. Another panel member must be selected by the health care provider's professional association, state licensing board, or the state bar, as the case may be. A party may not disqualify more than three panel members in this manner in any single malpractice claim, and the affidavit must be filed at--least--20--days prior--to--the--date--of--hearing within 15 days of the transmittal by the director, under 27-6-402, of the names of the panel members selected."

Section 8. Section 27-6-704, MCA, is amended to read:

"27-6-704. Panel proceedings and decision privileged from disclosure in court actions. (1) No panel member may be

1 called to testify in any proceeding concerning the
2 deliberations, discussions, decisions, and internal
3 proceedings of the panel.

4 ~~(2) No statement made by any person during a hearing~~
5 ~~before the panel may be used as impeaching evidence in~~
6 ~~court.~~ The decision of the medical review panel is not
7 admissible as evidence in any action subsequently brought in
8 any court of law."

9 NEW SECTION. Section 9. Effective dates. (1) Section
10 4 of this act is effective January 1, 1984.

11 (2) All other sections of this act are effective on
12 passage and approval.

-End-

STATUS SHEET

JUDICIARY

COMMITTEE

48 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
608	Repealing section which establish procedures for disciplining attorneys that are inconsistent with order and rules of Supreme Court.	2/1/83	Rep. Spaeth	2/11/83	Do Pass	2/11/83
609	Directing Department of Justice and local law enforcement agencies to establish a central repository for dental records of missing persons.	2/1/83	Rep. Spaeth	2/11/83	Do Pass As Amended	2/12/83
618	Amending medical malpractice panel act.	2/2/83	Rep. Keyser	2/10/83	Do Pass As Amended	2/10/83
619	Allowing a landlord to terminate a tenancy on 3 days written notice if tenant damages or removes part of the premises.	2/3/83	Rep. Hannah	2/9/83	Do Pass	2/9/83
628	Providing person not informed of his right to appeal a crt. order finding him seriously mentally ill and to whom habeas corpus is unavailable may have review in sup. crt.	2/3/83	Rep. Harper	2/10/83	Do Pass	2/10/83
629	Defining the term "general election" for the purpose of submission to the people of laws or constitutional amendments by the legislature.	2/3/83	Rep. D. Brown	2/7/83	Do Pass	2/7/83

MINUTES OF THE JUDICIARY COMMITTEE
February 10, 1983

The meeting of the House Judiciary Committee was called to order by Chairman Dave Brown at 8:05 a.m. in room 224A of the capitol building, Helena, Montana. All members were present as was Brenda Desmond, Staff Attorney for the Legislative Council.

HOUSE BILL 577

REPRESENTATIVE McBRIDE, District 85, Silver Bow County, stated that under current law, anyone who applies to the Montana Bar is charged an application fee of \$25.00; in addition, the law says the petition for the examination is also \$25.00; as far as she understands, the supreme court sets the bar fee, which is considerably above the \$25.00. She explained that what this bill does is to remove the statutory \$25.00 for the admission and for the bar exam and replaces it by saying that the fee for application of admission to the bar will be commensurate with the cost of processing the application as determined by the supreme court.

J. C. WEINGARTNER, representing the State Bar of Montana, feels that this bill is fair and they support it.

MIKE ABLEY, Court Administrator for the Supreme Court of Montana, said that they support either the Senate version or the House version of this bill.

There were no further proponents and no opponents.

REPRESENTATIVE McBRIDE stated that the class of 1984 will be the first class to take the bar exam so she felt that it was important that they straighten it out and make it clear as to how much it will cost.

There were no questions and the hearing on this bill was closed.

HOUSE BILL 540

REPRESENTATIVE VINCENT, District 78, Bozeman, stated that this was part of a packet of bills that addresses

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Page Seven

REPRESENTATIVE VINCENT indicated that that was in a separate piece of legislation that has been introduced and he would just leave it up to the best judgment of the committee.

REPRESENTATIVE ADDY declared that he would hate to see them do one thing and not the other. REPRESENTATIVE VINCENT replied that the intent is to do both.

There were no further questions and the hearing on this bill was closed.

HOUSE BILL 618

REPRESENTATIVE KEYSER, District 81, Ennis, stated that this bill changes the name of the Montana Malpractice Act to the Montana Legal Panel Act and the guts of the bill is on page 3, wherein it says, "The amount of the assessment must be annually set by the director, who shall allocate a projected cost among physicians, hospitals and other health care facilities." He advised that this act originally had one of the most extensive hearings he has ever heard in a House committee; this act has really been working well; this is one of the things that they have done through the years that has really worked well and it has really cut down on the number of malpractice cases.

GERALD NEELY, an attorney for the Montana Medical Association and also the legal counsel for the Montana Malpractice Panel, presented to the committee an explanation of some proposed amendments. See EXHIBIT G. He explained that the Montana Malpractice Panel sits in review of all claims against designated health care providers; the panel is composed of three physicians and three lawyers; and it is required that a claim go before one of these panels before it can proceed into court. He indicated that if either party does not like the decision, the people before the panel can still go on into court; and after six years of operation of the panel, the number of lawsuits in Montana with respect to malpractice claims has decreased over 70 per cent; and the number of trials has decreased over 88 per cent.

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Page Eight

JERRY LOENDORF, representing the Montana Medical Association, indicated that the effective date of this bill is January 1, 1984 and the reason for that is that the assessments have already been made for the year 1983 so they needed to delay the effective date. He stated that the other amendments are made effective immediately as they are things that can be utilized in the better administration of the panel.

ROSE SKOOG, representing the Montana Health Care Facilities, which represents nursing homes throughout the state, testified that they do support this bill, particularly the manner and changes in assessing proprietors. She indicated that there has only been one claim against a nursing home in all the time that the panel has been in existence.

There were no further proponents and no opponents.

REPRESENTATIVE KEYSER stated that it was a pleasure to see a panel or board that works right and does the job that you intended it to do.

REPRESENTATIVE ADDY asked where else can they put this kind of mechanism to work as it seems to have worked so well. MR. NEELY replied that there are probably a lot of areas that this could be used in; this is a kind of pilot program and is one of the better ones in the country. He felt that any dispute, especially if it is complicated, can be handled this way; it would be perfect for divorce litigation; workmen's compensation administration already exists; and it has been successful because of the high degree of cooperation between the bar association and the various hospitals, and the physicians, plus the smallness of the state where the individuals know each other has made quite a difference.

REPRESENTATIVE EUDAILY noted in section 6, concerning selection of the panelists, that a request goes to the state medical society and to the bar to submit names; and he asked if this was correct. MR. NEELY responded

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that that is correct; the director of each relevant association selects potential panelists and submits those to the panel.

REPRESENTATIVE EUDAILY asked if it doesn't just lengthen the process to increase that to twelve; and then who makes the decision as to the final three panelists; it would seem to him that if you asked each group to submit three names, you would have your panel right there. MR. NEELY replied that you would except for one problem and that is the challenging process; each side has the opportunity to challenge three members from the panel, so sometimes you can get into a situation if you don't have a pool to draw from and you have to go back and select different individuals and start the whole hearing process again.

REPRESENTATIVE EUDAILY noted that you must do this within thirty days; and with more people in there, it might even take longer. MR. NEELY answered that the thirty days is not the selection but the transmittal of names and it has been shortened to fourteen days so that the groups submitting the names have less time in which to do it; the proposed legislation would give them two weeks rather than four weeks.

REPRESENTATIVE EUDAILY indicated that the present language says, "they must select within thirty days from the date of transmittal" and they have omitted that so there is no limit on the number of days for transmittal. MR. NEELY replied that there is no limit, but there is another section of the law that requires the hearing to be in 120 days from the transmittal of the application; and because of that requirement, that automatically forces the early selection of the panelists. He explained that as a factual matter the hearings have gone through the panel on an average of between 115 and 125 days.

REPRESENTATIVE JAN BROWN asked in section 6, subsection 2, if they intended to leave "three persons" on line 24. MR. NEELY answered that should say, "twelve persons".

10

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Page Ten

There were no further questions and the hearing on this bill was closed.

HOUSE BILL 575

REPRESENTATIVE LORY, District 99, Missoula, said that this bill would provide a lien for medical practitioners and hospitals against payments awarded by the Workers' Compensation Division for medical services. He indicated that there is a problem wherein when a person gets a settlement for workers' compensation, they may have spent the money elsewhere and the hospitals and the medical practitioners are not paid.

CHAD SMITH, appearing in behalf of the Montana Hospital Association, explained this bill and indicated that they supported it. He said that it would not get to the worker's money that has been awarded to him for loss of time or replacement for his maintenance.

WILLIAM LEARY, President of the Montana Hospital Association, said that this thing is rare, but it does happen and it happens mostly in the disputed cases.

There were no further proponents and no opponents.

REPRESENTATIVE LORY closed.

REPRESENTATIVE DAILY asked if this would apply if a person had another debt at a hospital or a medical facility. REPRESENTATIVE LORY responded that the lien would be only on the worker's compensation and the award for that specific case.

REPRESENTATIVE JAN BROWN asked if a lien would be continued against an estate if the person died. MR. SMITH replied that the lien can only be enforced against the insurance company.

REPRESENTATIVE ADDY advised that workmen's compensation benefits are generally exempt from an attachment; he realizes that they aren't talking about compensation payments per se; they are just talking about that portion of the benefit that is for medical expenses; but

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Page Nineteen

trying to get the job done; but he would concur that that is generally the case; but he could cite the hard rock mining interim study as an example of the kind of thing that can be done and that has produced legislation and is moving right along. He contended that it is not an impossible task, but rather a commitment of the individuals involved in the study and also the financial commitment. He explained that they broke new ground in this study by going outside and soliciting funds to help finance the study; and quite frankly, they could have used more, but they didn't do too bad with what they had.

The motion carried unanimously.

HOUSE BILL 471

MS. DESMOND advised that in reviewing the amendments to this bill wherein the word "shall" was changed to "may", she proposes to make it "may, in its discretion" simply because, in the past, there have been supreme court opinions, as well as attorney general's opinions that have interpreted the word "may" to mean "shall" and she would like to make it clear here that it is to be discretionary.

CHAIRMAN BROWN indicated that the intent of the committee was that the supreme court may do it, but they just wanted to make it crystal clear that it would be discretionary. He asked if there was any objection to doing this; and, without objection, they would just go ahead and do it. There was no objection.

HOUSE BILL 577

REPRESENTATIVE JAN BROWN moved that this bill DO PASS. REPRESENTATIVE DARKO seconded the motion. The motion passed unanimously.

HOUSE BILL 618

REPRESENTATIVE KEYSER moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE RAMIREZ.

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Page Twenty

REPRESENTATIVE JAN BROWN moved that they amend the bill on page 5, line 24, by striking "three" and inserting "twelve". The motion was seconded by REPRESENTATIVE FARRIS. The motion carried unanimously.

REPRESENTATIVE KEYSER moved that the bill DO PASS AS AMENDED. The motion was seconded by REPRESENTATIVE EUDAILY. The motion carried unanimously.

HOUSE BILL 562

REPRESENTATIVE DARKO moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE DAILY.

REPRESENTATIVE EUDAILY moved the amendments. REPRESENTATIVE JENSEN seconded the motion.

CHAIRMAN BROWN indicated that the amendments are in the title on page 1, lines 5 and 6, strike "without consent", and on lines 14 and 15, strike "without consent", and strike lines 23 through 25 in their entirety.

There was no discussion on the amendment and the motion carried unanimously.

REPRESENTATIVE FARRIS moved that the bill be amended on line 14, after "contact" insert " as defined in 45-2-101". The motion was seconded by REPRESENTATIVE KEYSER. The motion carried with REPRESENTATIVE RAMIREZ, REPRESENTATIVE JAN BROWN, REPRESENTATIVE ADDY, REPRESENTATIVE JENSEN and REPRESENTATIVE CURTISS voting no.

REPRESENTATIVE DARKO moved that this bill DO PASS AS AMENDED. REPRESENTATIVE JENSEN seconded the motion. The motion carried unanimously.

HOUSE BILL 628

REPRESENTATIVE EUDAILY moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE CURTISS.

ROLL CALL

JUDICIARY

COMMITTEE

48 LEGISLATIVE SESSION, 1983

Name	January					Date			February					
	25	26	27	28	31	2/2	3	4	7	8	9	10	11	14
DAVE BROWN, Chairman	X	X	X	X	X	X	X	X	X	X	X	X	X	E
KELLY ADDY, Vice Chr.	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TONI BERGENE	X	X	X	X	X	X	X	X	X	X	X	X	X	E
JAN BROWN	X	X	X	X	X	X	X	X	X	X	X	X	X	X
AUBYN CURTISS	X	X	E	E	X	X	X	X	X	X	X	X	X	X
FRITZ DAILY	X	X	X	X	X	X	X	X	X	X	X	X	X	X
PAULA DARKO	X	X	X	X	X	X	X	X	X	X	X	X	X	X
RALPH EUDAILY	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CAROL FARRIS	X	X	X	X	X	E	X	X	E	X	X	X	X	X
TOM HANNAH	X	X	X	X	E	X	X	X	X	X	X	X	X	E
DENNIS IVERSON	X	X	X	X	X	X	X	X	X	X	X	X	X	X
JAMES JENSEN	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ROLAND KENNERLY	X	X	X	A	X	X	X	X	X	X	E	X	X	X
KERRY KEYSER	X	X	X	X	X	X	X	X	X	X	X	X	X	X
JACK RAMIREZ	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TED SCHYE	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CARL SEIFERT	X	E	X	X	X	X	X	E	X	X	E	X	X	X
GARY SPAETH	X	X	X	X	X	X	X	X	X	X	X	X	X	X
DENNIS VELEBER	X	X	X	X	X	X	X	X	X	X	X	X	X	X

X = Present
A = Absent
E = Excused

EXHIBIT
HB618
2/10/83

EXPLANATION OF PROPOSED PANEL AMENDMENTS

Section 1 and 3: Name of Panel. The name of the Panel is changed to the "Montana Medical Legal Panel" in these sections.

Section 2: Definition of Health Care Provider. The proposed amendment clarifies the definition by tying it to the licensing statutes and only changes the current statute by eliminating certain government infirmaries, the claims against which can still be handled by the Montana Tort Claims Act, §2-9-101, et. seq., these infirmaries being part of an institution which is not devoted primarily to health care.

Section 4: Change in Assessments. The current provision requires assessment amongst all health care providers on a per capita basis unless the Supreme Court authorizes a different allocation.

In an application to the court, the court indicated that the terms of this section may impose on the court an impermissible legislative task. Thus, without a change by legislation, a change in the method of assessment is not possible.

The proposed change is to place the assessment burden on the physicians, hospitals, and non-hospital health care facilities in the proportion to the number of their groups brought before the Panel.

Through 1982, claims have been closed against health care providers of whom 72% were physicians, 27% were hospitals. One claim has been brought against a non-hospital facility, a total of 4/10ths of 1% of the claims.

Under the current per capita provision, the hospitals, responsible for 27% of the health care providers with claims are paying 5% of the Panel assessment. The physicians, responsible for 72%, are paying 88% of the Panel assessment. The non-hospital health care facilities, responsible for .40%, are paying 7% of the Panel assessment.

The proposed amendment is to set the assessment on the basis of the extent that each group uses the Panel, as determined annually, with members within each group being assessed as follows: hospitals, on a per-bed basis; other health care providers on an equal per capita basis.

Panel data indicates that there is a correlation between the number of hospital beds a hospital has and the number of claims against it. The 12 hospitals having more than one claim against them represented 55% of the hospitals coming before the Panel and account for 56% of the hospital beds in Montana.

Section 5: Service by Certified Mail. Service by certified mail is proposed instead of the currently-required service by use of personal service or service by publication. As the health care provider population is a relatively fixed-location group, mail service is effective and far less costly.

Section 6: Number of Panelists Selected. The proposed amendment merely increases the initial number of panelists available for the pool from which the final panelists are selected.

Section 7: Filing of Disqualification Affidavit. The proposed amendment conforms the statute to panel practice under its rules.

Section 8: Deletion of Impeachment Prohibition. In the case of Linder v. Smith, the Montana Supreme Court, in holding the Panel constitutional, severed the words proposed to be stricken, and held the sentence unconstitutional.

VISITOR'S REGISTER

HOUSE

JUDICIARY

COMMITTEE

BILL HB 618

DATE Feb. 10, 1983

SPONSOR Keyser

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

February 1st 83
..... 19.....MR. **SPEAKER:**We, your committee on **JUDICIARY**having had under consideration **HOUSE** Bill No. **618**~~First~~ reading copy (white)
color

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA MEDICAL MALPRACTICE PANEL ACT BY CHANGING THE NAME OF THE ACT; CLARIFYING THE DEFINITIONS USED IN THE ACT; PROVIDING FOR A DIFFERENT ALLOCATION OF ASSESSMENTS; CHANGING THE TIME WITHIN WHICH AFFIDAVITS OF DISQUALIFICATION MAY BE FILED; PROVIDING FOR SERVICE BY CERTIFIED MAIL; INCREASING THE NUMBER OF PROPOSED PANELISTS INITIALLY SELECTED; DELETING THE PROHIBITION AGAINST THE USE OF IMPEACHING EVIDENCE IN COURT; AMENDING SECTIONS 27-6-101, 27-6-103, 27-6-104, 27-6-206, 27-6-305, 27-6-402, 27-6-404, AND 27-6-704, MCA; AND PROVIDING EFFECTIVE DATES."

Respectfully report as follows: That **HOUSE** Bill No. **618****BE AMENDED AS FOLLOWS:**

1. Page 5, line 24
- Strike: "three"
- Insert: "12"

AND AS AMENDED**DO PASS**

COMMITTEE ON Senate Judiciary

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
616	2-14-83	3-8-83	3-8-83					3-8-83	
617	3-1-83	3-17-83	3-17-83				3-17-83		
618	2-16-83	3-18-83	3-19-83				3-19-83		
619	2-16-83	3-10-83	3-10-83				3-10-83		
628	2-16-83	3-7-83	TABLED						
629	2-14-83	3-17-83	3-17-83				3-17-83		
642	2-17-83	3-8-83	3-10-83					3-10-83	
660	2-18-83	3-9-83	3-14-83					3-14-83	
662	3-16-83	3-18-83	3-22-83					3-22-83	
677	3-2-83	3-21-83	3-21-83				3-21-83		
678	3-2-83	3-18-83	3-19-83				3-19-83		
684	2-18-83	3-23-83	3-23-83				3-23-83		
705	3-1-83	3-16-83	3-19-83					3-22-83	
714	3-24-83	3-25-83	3-25-83					3-25-83	
731	3-1-83	3-21-83	3-21-83				3-21-83		
741	3-1-83	3-16-83	3-16-83				3-16-83		

Use a separate sheet for Senate, House Bills, and Resolutions.

HOUSE BILL NO. 618

INTRODUCED BY KEYSER, BARDANOUVE,
VINGER, SHONTZ

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA MEDICAL MALPRACTICE PANEL ACT BY CHANGING THE NAME OF THE ACT; CLARIFYING THE DEFINITIONS USED IN THE ACT; PROVIDING FOR A DIFFERENT ALLOCATION OF ASSESSMENTS; CHANGING THE TIME WITHIN WHICH AFFIDAVITS OF DISQUALIFICATION MAY BE FILED; PROVIDING FOR SERVICE BY CERTIFIED MAIL; INCREASING THE NUMBER OF PROPOSED PANELISTS INITIALLY SELECTED; DELETING THE PROHIBITION AGAINST THE USE OF IMPEACHING EVIDENCE IN COURT; AMENDING SECTIONS 27-6-101, 27-6-103, 27-6-104, 27-6-206, 27-6-305, 27-6-402, 27-6-404, AND 27-6-704, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-6-101, MCA, is amended to read:

"27-6-101. Short title. This chapter may be cited as the "Montana Medical Malpractice Legal Panel Act".

Section 2. Section 27-6-103, MCA, is amended to read:

"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Health care facility" means a facility other than a university, college, or governmental hospital or

infirmaries licensed as a health care facility under Title 50, chapter 5.

(2) "Health care provider" means a physician licensed to practice medicine in Montana or a hospital, hospital-related facility, or long-term health care facility.

(3) "Hospital" means a hospital as defined in 50-5-101.

(4) "Malpractice claim" means any claim or potential claim against a health care provider for medical treatment, lack of medical treatment, or other alleged departure from accepted standards of health care which proximately results in damage to the patient, whether the patient's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(5) "Panel" means the Montana medical malpractice legal panel provided for in 27-6-104.

(6) "Physician" means an individual licensed to practice medicine under the provisions of Title 37, chapter 3.

Section 3. Section 27-6-104, MCA, is amended to read: "27-6-104. Creation of panel. The Montana medical malpractice legal panel is created. The panel is attached to the Montana supreme court for administrative purposes only,

1 except that 2-15-121(2) does not apply."

2 Section 4. Section 27-6-206, MCA, is amended to read:

3 "27-6-206. Funding. (1) There is created a pretrial
4 review fund to be administered by the director exclusively
5 for the purposes stated in this chapter. The fund and any
6 income from it shall be held in trust, deposited in an
7 account, and invested and reinvested by the director with
8 the prior approval of the director of the Montana medical
9 association. The fund may not become a part of or revert to
10 the general fund of this state but shall be open to auditing
11 by the legislative auditor.

12 (2) To create the fund, an annual surcharge shall be
13 levied on all health care providers. ~~The amount of the~~
14 ~~assessment shall be set by the director, who shall allocate~~
15 ~~a projected cost among health care providers on a per capita~~
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14 required for the annual administration of the chapter shall
15 be retained by the director and used to finance the
16 administration of this chapter in succeeding years, in which
17 event the director shall reduce the annual assessment in
18 subsequent years, commensurate with the proper
19 administration of this chapter.

20 (3) The annual surcharge shall be paid on or before
21 the date physicians' annual registration fees are due under
22 37-3-313. The director has the same powers and duties in
23 connection with the collection of and failure to pay the
24 annual surcharge as the department of commerce has under
25 37-3-313 in connection with physicians' annual registration

fees."

Section 5. Section 27-6-305, MCA, is amended to read:

"27-6-305. Service on health care provider. Upon receipt of an application for review, the director or his delegate shall cause to be served a true copy of the application on the health care providers involved. Service shall be effected pursuant--to-the-Montana-Rules-of-Civil-Procedure by mailing a certified copy of the application to the health care provider at the provider's last-known address, postage prepaid, by certified mail, return receipt requested."

Section 6. Section 27-6-402, MCA, is amended to read:

"27-6-402. Selection of panelists. (1) Application for review shall be promptly transmitted by the director to the directors of the health care provider's state professional society or association and the state bar, which shall, within 14 days from the date of transmittal of the application, each select three 12 proposed panelists from which 3 will be selected within 30 days from the date of transmittal of the application.

(2) If no state professional society or association exists or if the health care provider does not belong to such a society or association, the director shall transmit the application to the health care provider's state licensing board, which shall in turn select three 12 persons

from the health care provider's profession and, where applicable, from persons specializing in the same field or discipline as the health care provider."

Section 7. Section 27-6-404, MCA, is amended to read:

"27-6-404. Disqualification of panel member. (1) Any member shall disqualify himself from consideration of any case in which, by virtue of his circumstances, he feels his presence on the panel would be inappropriate, considering the purpose of the panel. The director may excuse a proposed panelist from serving.

(2) Whenever a party makes and files an affidavit that a panel member selected pursuant to this part cannot, according to the belief of the party making the affidavit, sit in review of the application with impartiality, that panel member may proceed no further. Another panel member must be selected by the health care provider's professional association, state licensing board, or the state bar, as the case may be. A party may not disqualify more than three panel members in this manner in any single malpractice claim, and the affidavit must be filed at least 20 days prior--to--the--date--of--hearing within 15 days of the transmittal by the director, under 27-6-402, of the names of the panel members selected."

Section 8. Section 27-6-704, MCA, is amended to read:

"27-6-704. Panel proceedings and decision privileged

1 from disclosure in court actions. (1) No panel member may be
2 called to testify in any proceeding concerning the
3 deliberations, discussions, decisions, and internal
4 proceedings of the panel.

5 ~~(2) No statement made by any person during a hearing~~
6 ~~before the panel may be used as impeaching evidence in~~
7 ~~court.~~ The decision of the medical review panel is not
8 admissible as evidence in any action subsequently brought in
9 any court of law."

10 NEW SECTION. Section 9. Effective dates. (1) Section
11 4 of this act is effective January 1, 1984.

12 (2) All other sections of this act are effective on
13 passage and approval.

-End-

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 18, 1983

The forty-sixth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on March 18, 1983, at 10:03 a.m., in Room 325, State Capitol.

ROLL CALL: All Committee members were present.

CONSIDERATION OF HOUSE BILL 678: Representative Kitselman, sponsor of this bill, explained that this bill is designed to protect law enforcement officers. It is Representative Kitselman's belief that our law enforcement officers' jobs are complicated enough without criminals having access to armor-piercing ammunition. He also explained that although this bill cannot stop the use of armor-piercing ammunition, it does provide for an additional penalty if this type ammunition is used in committing a crime. Representative Kitselman suggested that HB678 be amended on p. 1, line 20, to read "not to exceed 25 years" rather than "or more than 25 years." Representative Kitselman pointed out to the Committee that HB678 is not intended to inhibit the responsible sportsman.

PROPOSERS: Col. R. W. Landon, representing the Montana Highway Patrol, circulated a bullet proof vest and armor-piercing bullet among the members of the Committee. Col. Landon pointed out that although members of the Montana Highway Patrol are encouraged to wear these bullet proof vests, the vests are not effective against armor-piercing bullets. Col. Landon informed the Committee that seven states have passed similar legislation to protect their law enforcement officers and urged the Committee to pass HB678.

Lewis and Clark County Sheriff Chuck O'Rielly, representing the Montana Sheriff's and Peace Officer's Association, testified that when he first became involved in law enforcement, he received 5-10 weapon-related calls a year. Now, Sheriff O'Rielly receives 5-10 weapon-related calls per week. He testified that the bullet proof vests are a small consolation to the officers who must answer these calls. Sheriff O'Rielly urged the Committee to give favorable consideration to HB678. There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Crippen questioned whether a person could buy armor-piercing ammunition that were regular factory loads. He was told that most of these types of ammunition are loaded by people in their own homes and considered to be "hot loads."

CONSIDERATION OF HOUSE BILL 618: Representative Keyser, sponsor of HB618, stated that this bill merely updates and modifies the Montana Medical Malpractice Act. Representative Keyser testified that this Act works very well. Representative Keyser then reserved the right to close.

PROPONENTS: Gerald J. Neely, representing the Montana Medical Association and Montana Medical Malpractice Panel, circulated an explanation of the proposed Panel Amendments (see attached Exhibit "A") and explained these amendments to the Committee. There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Mazurek had questions with the definition of "health care facility" defined on p. 1, line 25 of the bill.

Senator Keyser then closed the hearing by asking the Committee to give this bill a do pass, and requesting Senator Turnage to carry the bill on the Senate floor.

CONSIDERATION OF HOUSE BILL 438: Marc Racicott, testified that HB438 provides three new offenses under the law. These are negligent assault, negligent vehicular assault and negligent endangerment. Mr. Racicott testified that these offenses are set up because our laws currently contain "black holes." He explained these laws could pertain to many child abuse cases, hunting accidents and auto accidents. It is Mr. Racicott's belief that if a person causes an auto accident where another person loses his life, and consequently that person is charged with negligent homicide, that, under the law, if that same person is merely injured, then the person who caused the accident should be charged with vehicular assault. There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Turnage questioned whether negligent vehicular assault applies to any accident in which one of the parties is injured. Mr. Racicott pointed out that the courts would have to use discretion. There being no further questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 467: Representative Jensen, sponsor of the bill, submitted proposed amendments (see attached Exhibit "B"), and testified that HB467 is intended to tighten up a coroner's duties. Representative Jensen testified that the only qualifications a coroner must meet is the residency requirement and Representative Jensen believes some situations require more expertise.

PROPONENTS: Representative Brown testified that he feels the job of coroner has little function in our society. He urged the Committee for a favorable consideration of HB467.

Mr. Charles Gravely testified that he does not agree the office of coroner should be replaced by the state examiner. He believes

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 031883

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

25

EXPLANATION OF PROPOSED PANEL AMENDMENTS

Section 1 and 3: Name of Panel. The name of the Panel is changed to the "Montana Medical Legal Panel" in these sections.

Section 2: Definition of Health Care Provider. The proposed amendment clarifies the definition by tying it to the licensing statutes and only changes the current statute by eliminating certain government infirmaries, the claims against which can still be handled by the Montana Tort Claims Act, §2-9-101, et. seq., these infirmaries being part of an institution which is not devoted primarily to health care.

Section 4: Change in Assessments. The current provision requires assessment amongst all health care providers on a per capita basis unless the Supreme Court authorizes a different allocation.

In an application to the court, the court indicated that the terms of this section may impose on the court an impermissible legislative task. Thus, without a change by legislation, a change in the method of assessment is not possible.

The proposed change is to place the assessment burden on the physicians, hospitals, and non-hospital health care facilities in the proportion to the number of their groups brought before the Panel.

Through 1982, claims have been closed against health care providers of whom 72% were physicians, 27% were hospitals. One claim has been brought against a non-hospital facility, a total of 4/10ths of 1% of the claims.

Under the current per capita provision, the hospitals, responsible for 27% of the health care providers with claims are paying 5% of the Panel assessment. The physicians, responsible for 72%, are paying 88% of the Panel assessment. The non-hospital health care facilities, responsible for .40%, are paying 7% of the Panel assessment.

The proposed amendment is to set the assessment on the basis of the extent that each group uses the Panel, as determined annually, with members within each group being assessed as follows: hospitals, on a per-bed basis; other health care providers on an equal per capita basis.

Panel data indicates that there is a correlation between the number of hospital beds a hospital has and the number of claims against it. The 12 hospitals having more than one claim against them represented 55% of the hospitals coming before the Panel and account for 56% of the hospital beds in Montana.

Section 5: Service by Certified Mail. Service by certified mail is proposed instead of the currently-required service by use of personal service or service by publication. As the health care provider population is a relatively fixed-location group, mail service is effective and far less costly.

Section 6: Number of Panelists Selected. The proposed amendment merely increases the initial number of panelists available for the pool from which the final panelists are selected.

Section 7: Filing of Disqualification Affidavit. The proposed amendment conforms the statute to panel practice under its rules.

Section 8: Deletion of Impeachment Prohibition. In the case of Linder v. Smith, the Montana Supreme Court, in holding the Panel constitutional, severed the words proposed to be stricken, and held the sentence unconstitutional.

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 19, 1983

The forty-seventh meeting of the Senate Judiciary Committee was called to order by Vice-Chairman Crippen in the absence of Chairman Turnage at 9:05 a.m., on March 19, 1983, in Room 325, State Capitol.

ROLL CALL: All members were present with the exception of Senator Berg.

CONSIDERATION OF HOUSE BILL 215: Representative Ramirez, sponsor of the bill, testified that this bill originated with the Montana Banker's Association and the Montana State Bar Legislative Committee. Representative Ramirez explained that the original Act was drafted in 1931 and adopted by Montana in 1959. It is Representative Ramirez's opinion that Montana is behind in adopting this Act as it is proposed in HB215. Representative Ramirez stated that the objective of HB215 is to determine the actual intent of a person who sets up the trust.

PROPOSERS: Mr. Howard E. Vralsted, of the Northwest Union Trust Company in Billings and appearing on behalf of Montana Banker's Association Trust Division, testified that he has reviewed similar legislation of other states, and it is his conclusion that Montana should adopt the revised Uniform Principle and Income Act. Mr. Vralsted testified that this legislation is intended to treat all beneficiaries fairly. Mr. Vralsted informed the Committee that the primary changes between the 1931 Act and HB215 are:

1. The 1931 Act does not allocate royalties received from minerals. HB215 has a provision for allocation of this income.
2. HB215 provides for depreciation, where the 1931 Act failed to contain this provision.
3. HB215 provides for allocation of trustee's fees, court costs, and attorney's fees.
4. In 1959, when the 1931 Act was adopted, that Act did not apply to trusts which were already established.

Mr. Vralsted informed the Committee that HB215 also changed the definition of "inventory value" and "trustee." Mr. Vralsted urged the Committee to support HB215.

Mr. David L. Johnson, Chairman of the Legislative Committee, Tax and Probate Section, State Bar of Montana, testified that Montana has not had much litigation construing the 1959 Act. Because of this, it is difficult to know exactly what the governing rules are. Mr. Johnson also testified that HB215 will not have a negative impact on tax receipts in Montana. He urged the Committee to support HB215.

under a contract for deed. The purchaser now is not required to be notified of certain things which affect the property. Under HB812, holders of any purchasing interest in the property would be notified of all legal actions taken on the property.

PROPOSERS: Mr. Greg Groepper of the Montana Department of Revenue, submitted written testimony (see attached Exhibit "E") and stated that when a notice is served on the Clerk and Recorder, a Realty Transfer Certificate should also be completed to notify the Assessor's Office.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 467: Senator Galt moved that HB467 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 618: Senator Turnage moved that HB618 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 678: Senator Turnage moved that HB678 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 438: Senator Turnage moved that HB438 BE TABLED. This motion carried with Senator Halligan voting in opposition.

ACTION ON HOUSE BILL 705: Senator Turnage moved that Steve Brown's proposed amendments BE ADOPTED. This motion carried unanimously. Senator Turnage then made a motion that HB705 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 215: Senator Mazurek made a motion that HB215 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 855: Senator Mazurek moved that the amendments proposed by David L. Johnson BE ADOPTED. This motion carried unanimously. Senator Mazurek moved that HB855 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ACTION ON HOUSE BILL 257: Senator Mazurek moved that HB 257 and the Statement of Intent BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 331: Senator Galt moved that the first set of amendments to HB331 (see attached Exhibit F) BE ADOPTED. This motion carried unanimously. Senator Turnage moved that HB331 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983

Date 031983

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)			✓
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)	✓		
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 19, 19 83....

MR. President.....

We, your committee on Senate Judiciary.....

having had under consideration House..... Bill No. 618.....
Keyser (Mazurek)

Respectfully report as follows: That..... House..... Bill No. 618.....

DO PASS

BE CONCURRED IN

32
H.C.

HOUSE BILL NO. 618

INTRODUCED BY KEYSER, BARDANOUVE,

VINGER, SHONTZ

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA MEDICAL MALPRACTICE PANEL ACT BY CHANGING THE NAME OF THE ACT; CLARIFYING THE DEFINITIONS USED IN THE ACT; PROVIDING FOR A DIFFERENT ALLOCATION OF ASSESSMENTS; CHANGING THE TIME WITHIN WHICH AFFIDAVITS OF DISQUALIFICATION MAY BE FILED; PROVIDING FOR SERVICE BY CERTIFIED MAIL; INCREASING THE NUMBER OF PROPOSED PANELISTS INITIALLY SELECTED; DELETING THE PROHIBITION AGAINST THE USE OF IMPEACHING EVIDENCE IN COURT; AMENDING SECTIONS 27-6-101, 27-6-103, 27-6-104, 27-6-206, 27-6-305, 27-6-402, 27-6-404, AND 27-6-704, MCA; AND PROVIDING EFFECTIVE DATES."

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16 must be selected by the health care provider's professional
17 association, state licensing board, or the state bar, as the
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19 panel members in this manner in any single malpractice
20 claim, and the affidavit must be filed at least 20 days
21 prior--to--the--date--of--hearing within 12 days of the
22 transmittal by the director, under 27-6-402, of the names of
23 the panel members selected."

24 Section 8. Section 27-6-704, MCA, is amended to read:

25 "27-6-704. Panel proceedings and decision privileged

1 from disclosure in court actions. (1) No panel member may be
2 called to testify in any proceeding concerning the
3 deliberations, discussions, decisions, and internal
4 proceedings of the panel.

5 ~~(2) No statement made by any person during a hearing~~
6 ~~before the panel may be used as impeaching evidence in~~
7 ~~court.~~ The decision of the medical review panel is not
8 admissible as evidence in any action subsequently brought in
9 any court of law."

10 NEW SECTION. Section 9. Effective dates. (1) Section
11 4 of this act is effective January 1, 1984.

12 (2) All other sections of this act are effective on
13 passage and approval.

-End-